

AMENDED IN ASSEMBLY MARCH 9, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

No. 47

Introduced by Assembly Member Cohn

December 6, 2004

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~~An act to amend Section 104900 of the Health and Safety Code, relating to pneumonia vaccines. An act to add Section 19135 to the Government Code, relating to public contracts.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 47, as amended, Cohn. ~~Pneumonia vaccines~~ *Public contracts: Department of Corrections: medical care services.*

*Existing law authorizes state agencies to enter into personal services contracts if certain conditions are met.*

*This bill would prohibit, except under specified circumstances, the Department of General Services from authorizing the Department of Corrections to enter into contracts for medical care services without seeking competitive bids for those contracts.*

~~Existing law authorizes the State Department of Health Services to provide appropriate pneumonia vaccine to local governmental or private, nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations for groups identified as high risk by the United States Public Health Service.~~

~~This bill would require the department to provide appropriate pneumonia vaccine to those entities.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 104900 of the Health and Safety Code~~  
2     ~~is amended to read:~~

3     ~~SECTION 1. Section 19135 is added to the Government~~  
4     ~~Code, to read:~~

5     ~~19135. (a) Notwithstanding any other provision of law and~~  
6     ~~except as provided in subdivision (b), the Department of General~~  
7     ~~Services shall not authorize the Department of Corrections to~~  
8     ~~enter into a contract for medical care services without seeking~~  
9     ~~competitive bids for that contract pursuant to Article 4~~  
10    ~~(commencing with Section 10335) of Chapter 2 or Part 2 of~~  
11    ~~Division 2 of the Public Contract Code.~~

12    ~~(b) If the Department of Corrections demonstrates that~~  
13    ~~compliance with competitive bidding procedures is not possible,~~  
14    ~~the Department of General Services shall authorize the~~  
15    ~~Department of Corrections to enter into a contract for medical~~  
16    ~~care services if, at a minimum, the Department of Corrections~~  
17    ~~conducts a market survey and prepares a price analysis that~~  
18    ~~demonstrates, to the satisfaction of the Department of General~~  
19    ~~Services, that a proposed contract for medical care services is in~~  
20    ~~the best interest of the state.~~

21    ~~104900. (a) The department shall provide appropriate flu~~  
22    ~~vaccine to local governmental or private, nonprofit agencies at no~~  
23    ~~charge in order that the agencies may provide the vaccine, at a~~  
24    ~~minimal cost, at accessible locations in the order of priority first,~~  
25    ~~for all persons 60 years of age or older in this state and then to~~  
26    ~~any other high-risk groups identified by the United States Public~~  
27    ~~Health Service. The department and the California Department of~~  
28    ~~Aging shall prepare, publish, and disseminate information~~  
29    ~~regarding the availability of the vaccine and the effectiveness of~~  
30    ~~the vaccine in protecting the health of older persons.~~

31    ~~(b) The department shall provide appropriate pneumonia~~  
32    ~~vaccine to local governmental or private, nonprofit agencies at no~~  
33    ~~charge in order that the agencies may provide the vaccine, at a~~  
34    ~~minimal cost, at accessible locations for groups identified as high~~  
35    ~~risk by the United States Public Health Service.~~

36    ~~(c) The program shall be designed to utilize voluntary~~  
37    ~~assistance from public or private sectors in administering the~~  
38    ~~vaccines. However, local governmental or private, nonprofit~~

1 ~~agencies may charge and retain a fee not exceeding two dollars~~  
2 ~~(\$2) per person to offset administrative operating costs.~~

3 ~~(d) Except when the department determines that it is not~~  
4 ~~feasible to utilize federal funds due to excessive administrative~~  
5 ~~costs, the department shall seek and utilize available federal~~  
6 ~~funds to the maximum extent possible for the cost of the vaccine,~~  
7 ~~the cost of administering the vaccine and the minimal fee~~  
8 ~~charged under this section, including reimbursement under the~~  
9 ~~Medi-Cal program for persons eligible therefor to the extent~~  
10 ~~permitted by federal law.~~

11 ~~(e) Administration of the vaccine shall be performed either by~~  
12 ~~a physician, a registered nurse, or a licensed vocational nurse~~  
13 ~~acting within the scope of their professional practice acts. The~~  
14 ~~physician under whose direction the registered nurse or a~~  
15 ~~licensed vocational nurse is acting shall require the nurse to~~  
16 ~~satisfactorily demonstrate familiarity with (1) contraindication~~  
17 ~~for the administration of such immunizing agents, (2) treatment~~  
18 ~~of possible anaphylactic reactions, and (3) the administration of~~  
19 ~~treatment, and reactions to such immunizing agents.~~

20 ~~(f) No private, nonprofit volunteer agency whose involvement~~  
21 ~~with an immunization program governed by this section is~~  
22 ~~limited to the provision of a clinic site or promotional and~~  
23 ~~logistical support pursuant to subdivision (e), or any employee or~~  
24 ~~member thereof, shall be liable for any injury caused by an act or~~  
25 ~~omission in the administration of the vaccine or other~~  
26 ~~immunizing agent to a person 60 years of age or older or to~~  
27 ~~members of high-risk groups identified by the United States~~  
28 ~~Public Health Service, if the immunization is performed pursuant~~  
29 ~~to this section in conformity with applicable federal, state, or~~  
30 ~~local governmental standards and the act or omission does not~~  
31 ~~constitute willful misconduct or gross negligence. As used in this~~  
32 ~~subdivision, "injury" includes the residual effects of the vaccine~~  
33 ~~or other immunizing agent. It is the intent of the Legislature in~~  
34 ~~adding this subdivision to affect only the liability of private,~~  
35 ~~nonprofit volunteer agencies and their members that are not~~  
36 ~~health facilities as defined in Section 1250.~~

37 ~~(g) Nothing in this section shall be construed to require~~  
38 ~~physical presence of a directing or supervising physician, or the~~  
39 ~~examination by a physician of persons to be tested or immunized.~~

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